

Michael K. McKell proposes the following substitute bill:

Offender Supervision Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses provisions related to supervision of offenders.

Highlighted Provisions:

This bill:

- requires the board, if considering whether to parole an offender who has previously been paroled and had the offender's parole revoked due to a new criminal offense, to consider the facts and circumstances of the new criminal offense in determining whether the offender should be paroled again;

- allows the board, with certain exceptions, to only consider a pardon for an offender who has committed an offense that requires the offender to register on the Sex, Kidnap, and Child Abuse Offender Registry (the registry) if:

- for a sex offender required to register on the registry for 10 years, 10 years have passed from when the sex offender entered the community after the sex offender's conviction; or

- for a sex offender required to register on the registry for the sex offender's lifetime, 20 years have passed from when the sex offender entered the community after the sex offender's conviction; and

- adds to the requirements for the board to meet before the board may parole an offender before the offender's minimum term of imprisonment has been met.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-27-5, as last amended by Laws of Utah 2025, Chapters 476, 526

30 **77-27-9**, as last amended by Laws of Utah 2022, Chapter 430

31 ENACTS:

32 **77-27-5.6**, Utah Code Annotated 1953

33 REPEALS:

34 **77-27-31**, as enacted by Laws of Utah 1980, Chapter 15

35

36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **77-27-5** is amended to read:

38 **77-27-5 . Board of Pardons and Parole authority.**

39 (1)(a) Subject to this chapter and other laws of the state, and except for a conviction for
40 treason or impeachment, the board shall determine by majority decision when and
41 under what conditions an offender's conviction may be pardoned or commuted.

42 (b) The board shall determine by majority decision when and under what conditions an
43 offender committed to serve a sentence at a penal or correctional facility, which is
44 under the jurisdiction of the department, may:

45 (i) be released upon parole;

46 (ii) have a fine or forfeiture remitted;

47 (iii) have the offender's criminal accounts receivable remitted in accordance with
48 Section 77-32b-105 or 77-32b-106;

49 (iv) have the offender's payment schedule modified in accordance with Section
50 77-32b-103; or

51 (v) have the offender's sentence terminated.

52 (c) The board shall prioritize public safety when making a determination under
53 Subsection (1)(a) or (1)(b).

54 (d)(i) The board may sit together or in panels to conduct hearings.

55 (ii) The chair shall appoint members to the panels in any combination and in
56 accordance with rules made by the board in accordance with Title 63G, Chapter 3,
57 Utah Administrative Rulemaking Act.

58 (iii) The chair may participate on any panel and when doing so is chair of the panel.

59 (iv) The chair of the board may designate the chair for any other panel.

60 (e)(i) Except after a hearing before the board, or the board's appointed examiner, in
61 an open session, the board may not:

62 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts
63 receivable;

- 64 (B) release the offender on parole; or
65 (C) commute, pardon, or terminate an offender's sentence.
- 66 (ii) An action taken under this Subsection (1) other than by a majority of the board
67 shall be affirmed by a majority of the board.
- 68 (f) A commutation or pardon may be granted only after a full hearing before the board.
- 69 (2)(a) In the case of a hearing, timely prior notice of the time and location of the hearing
70 shall be given to the offender.
- 71 (b) The county or district attorney's office responsible for prosecution of the case, the
72 sentencing court, and law enforcement officials responsible for the defendant's arrest
73 and conviction shall be notified of any board hearings through the board's website.
- 74 (c) Whenever possible, the victim or the victim's representative, if designated, shall be
75 notified of original hearings and any hearing after that if notification is requested and
76 current contact information has been provided to the board.
- 77 (d)(i) Notice to the victim or the victim's representative shall include information
78 provided in Section 77-27-9.5, and any related rules made by the board under that
79 section.
- 80 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are
81 reasonable for the lay person to understand.
- 82 (3)(a) A decision by the board is final and not subject for judicial review if the decision
83 is regarding:
- 84 (i) a pardon, parole, commutation, or termination of an offender's sentence;
85 (ii) restitution, the modification of an offender's payment schedule for restitution, or
86 an order for costs; or
87 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.
- 88 (b) Deliberative processes are not public and the board is exempt from Title 52, Chapter
89 4, Open and Public Meetings Act, when the board is engaged in the board's
90 deliberative process.
- 91 (c) [~~Pursuant to~~] In accordance with Subsection 63G-2-103(25)(b)(xii), records of the
92 deliberative process are exempt from Title 63G, Chapter 2, Government Records
93 Access and Management Act.
- 94 (d) Unless it will interfere with a constitutional right, deliberative processes are not
95 subject to disclosure, including discovery.
- 96 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.
- 97 (4)(a) This chapter [~~may not be construed as a denial of or limitation of~~] does not deny or

- 98 limit the governor's power to grant respite or reprieves in all cases of convictions for
99 offenses against the state, except treason or conviction on impeachment.
- 100 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the
101 next session of the board.
- 102 (c) At the next session of the board, the board:
- 103 (i) shall continue or terminate the respite or reprieve; or
104 (ii) may commute the punishment or pardon the offense as provided.
- 105 (d) In the case of conviction for treason, the governor may suspend execution of the
106 sentence until the case is reported to the Legislature at the Legislature's next session.
- 107 (e) The Legislature shall pardon or commute the sentence or direct the sentence's
108 execution.
- 109 (5)(a) In determining when, where, and under what conditions an offender serving a
110 sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the
111 offender's criminal accounts receivable remitted, or have the offender's sentence
112 commuted or terminated, the board shall:
- 113 (i) consider whether the offender has made restitution ordered by the court under
114 Section 77-38b-205, or is prepared to pay restitution as a condition of any parole,
115 pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a
116 commutation or termination of the offender's sentence;
- 117 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for
118 making determinations under this Subsection (5);
- 119 (iii) consider information provided by the department regarding an offender's
120 individual case action plan;~~and~~
- 121 (iv) review an offender's status within 60 days after the day on which the board
122 receives notice from the department that the offender has completed all of the
123 offender's case action plan components that relate to activities that can be
124 accomplished while the offender is imprisoned[-] ; and
- 125 (v) if considering whether to parole an offender who has previously been paroled and
126 had the parole revoked due to the commission of a new criminal offense by the
127 offender, consider the facts and circumstances of the new criminal offense when
128 determining whether the offender should be paroled again.
- 129 (b) The board shall determine whether to remit an offender's criminal accounts
130 receivable under this Subsection (5) in accordance with Section 77-32b-105 or
131 77-32b-106.

- 132 (6) In determining whether parole may be terminated, the board shall consider:
- 133 (a) the offense committed by the parolee; and
- 134 (b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.
- 135 (7) For an offender placed on parole after December 31, 2018, the board shall terminate
- 136 parole in accordance with the adult sentencing and supervision length guidelines, as
- 137 defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the
- 138 requirements of the law.
- 139 (8) The board may not rely solely on an algorithm or a risk assessment tool score in
- 140 determining whether parole should be granted or terminated for an offender.
- 141 (9) The board may intervene as a limited-purpose party in a judicial or administrative
- 142 proceeding, including a criminal action, to seek:
- 143 (a) correction of an order that has or will impact the board's jurisdiction; or
- 144 (b) clarification regarding an order that may impact the board's jurisdiction.
- 145 (10) A motion to intervene brought under Subsection (9)(a) shall be raised within 60 days
- 146 after the day on which a court enters the order that impacts the board's jurisdiction.

147 Section 2. Section **77-27-5.6** is enacted to read:

148 **77-27-5.6 . Pardon timelines for an offender on the Sex, Kidnap, and Child**

149 **Abuse Offender Registry.**

- 150 (1) As used in this section:
- 151 (a) "Division" means the Division of Juvenile Justice and Youth Services.
- 152 (b) "Minor" means the same as that term is defined in Section 80-1-102.
- 153 (c) "Registry" means the Sex, Kidnap, and Child Abuse Offender Registry created in
- 154 Section 53-29-102.
- 155 (d) "Sex offender" means the same as that term is defined in Section 53-29-101.
- 156 (2) The board may only consider issuing a pardon to an offender for an offense that requires
- 157 the offender to register as a sex offender on the registry if:
- 158 (a) for an offender who is required to register for 10 years under Subsection
- 159 53-29-203(1)(a), 10 years have passed after the later of:
- 160 (i) the day on which the offender was placed on probation;
- 161 (ii) the day on which the offender was released from incarceration to parole;
- 162 (iii) the day on which the offender's sentence was terminated without parole;
- 163 (iv) the day on which the offender entered a community-based residential program; or
- 164 (v) for a minor, the day on which the division's custody of the offender was
- 165 terminated; or

166 (b) for an offender who is required to register for the offender's lifetime under
167 Subsection 53-29-203(1)(b), 20 years have passed after the later of:
168 (i) the day on which the offender was placed on probation;
169 (ii) the day on which the offender was released from incarceration to parole;
170 (iii) the day on which the offender's sentence was terminated without parole;
171 (iv) the day on which the offender entered a community-based residential program; or
172 (v) for a minor, the day on which the division's custody of the offender was
173 terminated.

174 (3) The timelines described in Subsection (2) do not apply to:

175 (a) an individual whose conviction was vacated, reversed, or otherwise set aside; or
176 (b) an individual who was found to be factually innocent by a court after filing a petition
177 for:
178 (i) postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act; or
179 (ii) a writ of habeas corpus under 28 U.S.C. Sec. 2254.

180 Section 3. Section **77-27-9** is amended to read:

181 **77-27-9 . Parole proceedings.**

182 (1)(a) The Board of Pardons and Parole may parole any offender or terminate the
183 sentence of any offender committed to a penal or correctional facility under the
184 jurisdiction of the Department of Corrections except as provided in Subsection (2).
185 (b) The board may not release any offender before the minimum term has been served
186 unless the board:
187 (i) finds mitigating circumstances which justify the release;
188 (ii) finds by clear and convincing evidence that the offender is no longer a threat to
189 public safety; and
190 (iii) ~~[-unless the board has granted]~~ holds a full hearing, in open session, after
191 previous notice of the time and location of the hearing, and recorded the
192 proceedings and decisions of the board.
193 (c) The board may not parole any offender or terminate the sentence of any offender
194 unless the board has granted a full hearing, in open session, after previous notice of
195 the time and location of the hearing, and recorded the proceedings and decisions of
196 the board.
197 (d) The release of an offender shall be at the initiative of the board, which shall consider
198 each case as the offender becomes eligible. However, a prisoner may submit the
199 prisoner's own application, subject to the rules of the board promulgated in

- 200 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 201 (2)(a) An individual sentenced to prison [~~prior to~~ before April 29, 1996, for a first
202 degree felony involving child kidnapping, a violation of Section 76-5-301.1;
203 aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of
204 Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy
205 upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a
206 violation of Section 76-5-404.3; aggravated sexual assault, a violation of Section
207 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for
208 release on parole by the Board of Pardons and Parole until the offender has fully
209 completed serving the minimum mandatory sentence imposed by the court. [-]This
210 Subsection (2)(a) supersedes any other provision of law.
- 211 (b) The board may not parole any offender or commute or terminate the sentence of any
212 offender before the offender has served the minimum term for the offense, if the
213 offender was sentenced [~~prior to~~ before April 29, 1996, and if:
- 214 (i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape,
215 aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual
216 assault as defined in Title 76, Chapter 5, Offenses Against the Individual; and
217 (ii) the victim of the offense was under 18 years old at the time the offense was
218 committed.
- 219 (c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the
220 board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole
221 as provided in this section.
- 222 (d) The board may not pardon or parole any offender or commute or terminate the
223 sentence of any offender who is sentenced to life in prison without parole except as
224 provided in Subsection (7).
- 225 (e) [~~On or after April 27, 1992, the~~ The board may commute a sentence of death only to
226 a sentence of life in prison without parole.
- 227 (f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come
228 before the Board of Pardons and Parole on or after April 27, 1992.
- 229 (g) The board may not parole any offender convicted of a homicide unless:
- 230 (i) the remains of the victim have been recovered; or
231 (ii) the offender can demonstrate by a preponderance of the evidence that the
232 offender has cooperated in good faith in efforts to locate the remains.
- 233 (h) Subsection (2)(g) applies to any offender convicted of a homicide after February 25,

- 234 2021, or any offender who was incarcerated in a correctional facility on or after
235 February 25, 2021, for a homicide offense.
- 236 (3) The board may rescind:
- 237 (a) an inmate's prison release date [~~prior to~~] before the inmate being released from
238 custody; or
- 239 (b) an offender's termination date from parole [~~prior to~~] before the offender being
240 terminated from parole.
- 241 (4)(a) The board may issue subpoenas to compel the attendance of witnesses and the
242 production of evidence, to administer oaths, and to take testimony for the purpose of
243 any investigation by the board or any of the board's members or by a designated
244 hearing examiner in the performance of the board's duties.
- 245 (b) A person who willfully disobeys a properly served subpoena issued by the board is
246 guilty of a class B misdemeanor.
- 247 (5)(a) The board may adopt rules consistent with law for the board's government,
248 meetings and hearings, the conduct of proceedings before the board, the parole and
249 pardon of offenders, the commutation and termination of sentences, and the general
250 conditions under which parole may be granted and revoked.
- 251 (b) The rules shall ensure an adequate opportunity for victims to participate at hearings
252 held under this chapter, as provided in Section 77-27-9.5.
- 253 (c) The rules may allow the board to establish reasonable and equitable time limits on
254 the presentations by all participants in hearings held under this chapter.
- 255 (6) The board does not provide counseling or therapy for victims as a part of their
256 participation in any hearing under this chapter.
- 257 (7) The board may parole a person sentenced to life in prison without parole if the board
258 finds by clear and convincing evidence that the person is permanently incapable of being
259 a threat to the safety of society.

260 Section 4. **Repealer.**

261 This bill repeals:

262 Section **77-27-31, Short title.**

263 Section 5. **Effective Date.**

264 This bill takes effect on May 6, 2026.